

TAXATION

DATE 1-11-07

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GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill # SB0121

Title: Prohibit sale of tax information

Primary Sponsor: Elliott, J.

Status: As Introduced

- ☐ Significant Local Gov Impact ☐ Needs to be included in HB 2 ☐ Technical Concerns
☐ Included in the Executive Budget ☐ Significant Long-Term Impacts ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
Expenditures:				
General Fund	\$0	\$0	\$0	\$0
Revenue:				
General Fund	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL ANALYSIS

Assumptions:

This bill has no fiscal impact to the state.

Sponsor's Initials

1/3/07

Date

Budget Director's Initials

1/2/07

Date



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill #	SB0174	Title:	Revise laws on revenue administration
Primary Sponsor:	Elliott, J.	Status:	As Introduced

- | | | |
|----------------------------------------------------------------------|-------------------------------------------------------------------|----------------------------------------------------------|
| <input type="checkbox"/> Significant Local Gov Impact | <input type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns |
| <input checked="" type="checkbox"/> Included in the Executive Budget | <input checked="" type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

FISCAL SUMMARY

	<u>FY 2008 Difference</u>	<u>FY 2009 Difference</u>	<u>FY 2010 Difference</u>	<u>FY 2011 Difference</u>
Expenditures:				
General Fund	\$222,644	\$211,224	\$211,581	\$211,940
Revenue:				
General Fund	\$0	\$0	\$1,063,969	\$1,109,744
Net Impact-General Fund Balance:	<u>(\$222,644)</u>	<u>(\$211,224)</u>	<u>\$852,388</u>	<u>\$897,804</u>

Description of fiscal Impact:

The Department of Revenue (DOR) assumes this bill would increase general fund revenues through increases in individual income tax collections and corporation license tax collections (see assumption 22). DOR also assumes that general fund expenditures are necessary to fund three additional FTEs (see assumption 23).

FISCAL ANALYSIS

Assumptions:

1. This bill updates the definition of a "person," and coordinates the general definition found in 15-1-102, MCA, with that found in 1-1-201, MCA. DOR assumes this section (15-1-102) of the bill will have no fiscal impact.
2. This bill amends 15-1-201(3), MCA, to eliminate the requirement that DOR must collect tax and other information from municipalities annually. The section is changed so DOR may collect this information. DOR expects the change will reduce reporting which may result in some small administrative cost savings. For purposes of this fiscal note, DOR assumes this section will have no fiscal impact.

3. This bill adds 15-1-201(4)(a), MCA, which requires state agencies to report taxpayer information to DOR at the department's request. The bill also adds 15-1-201(4)(b), MCA, which requires state agencies to report confidential criminal justice information that may be evidence of fraud to the DOR. There is no estimate of the fiscal impact on the agencies required to submit the information.
4. This bill adds 15-1-201(5), MCA, which allows DOR to exchange taxpayer name and address information with other state agencies. DOR does not include a fiscal impact for this change.
5. This bill amends 15-1-216 2(a), MCA, to reflect federal law penalty rates. The late payment penalty for all taxes except trust taxes would be changed from 1.2% per month (12% maximum) to 1% per month (10% maximum). DOR assumes this provision has no significant fiscal impact in the near future.
6. This bill adds section 15-1-216(2)(c), MCA, to establish penalty guidelines for substantial underreporting by type of tax liability. The bill establishes a 20% penalty of the underpayment. If there has been substantial underpayment due to fraud, the penalty is 75% of the underpayment. DOR states this should increase revenue. This increase cannot be precisely estimated, so DOR assumes this provision will have no significant fiscal impact in the near future.
7. This bill adds section 15-1-216(3), MCA, which states that failure to accurately report any required tax information will result in a \$50 penalty per incident of inaccuracy. If the inaccuracy is corrected within 6 months after the due date, DOR may waive the fee. DOR states this could increase revenue, but assumes the penalty has no fiscal impact because the impact cannot be precisely estimated.
8. This bill amends section 15-1-216(4), MCA, by increasing the penalties for failure to file returns from, "not less than \$1,000 or more than \$10,000" to, "the greater of \$1,000 or 15% of the tax liability a month. The penalty may not exceed 75% of the tax liability." DOR assumes this section of the bill will have no significant fiscal impact in the near future.
9. This bill adds section 15-1-216(5)(a,b), MCA, to penalize individuals found guilty of a felony for fraudulent tax information up to a \$20,000 fine, or up to 5 years in prison, or both. Corporations, entities and employees that are convicted of fraud shall be fined up to \$50,000, or up to 5 years in prison, or both. DOR states this provision may increase revenue, but assumes no significant fiscal impact.
10. This bill amends 15-30-112, MCA, to revise the definition of a "qualifying child" to correspond to the federal definition of qualifying child for individual income tax purposes. DOR assumes this change has no fiscal impact.
11. This bill amends section 15-30-135(1), MCA, to include the ability to tax unrelated business income from estates or trusts held for education, charitable or religious purposes. DOR does not include a fiscal impact for this change.
12. This bill adds section 15-30-135(6), MCA, to establish a 50% tax on synthetic equity described in the Internal Revenue Code. DOR does not include a fiscal impact for this change.
13. This bill amends 15-30-136(2)(b), MCA, to conform the tax on estates and trusts to the individual income tax with regard to the state limit on the deduction for federal income taxes. The limit was enacted by SB 407 in the 2003 legislative session. Thus, the deduction for federal income taxes for the Montana tax on estates and trusts is limited to \$5,000. DOR states that it does not have the information necessary for calculation the fiscal impact of this section at this time so DOR assumes no fiscal impact.
14. This bill adds sections 15-30-137(2,3,4), MCA, to clarify taxation of shareholders of S. corporation trusts and to change the treatment and taxation of electing small business trusts to conform to federal law. It also imposes an excise tax on specific types of S. corporations. DOR did not estimate a fiscal impact for this change.
15. This bill amends 15-30-144, MCA, to change filing extensions for individual income tax and make them consistent with federal law. DOR assumes this section of the bill would have no fiscal impact.
16. This bill amends 15-30-149, MCA, by adding subsection (2)(a) to limit the amount of time taxpayers can claim excess payments, erroneous interest, or other monies to be refunded to them from DOR to 1 year. DOR assumes no fiscal impact due to this change.

17. This bill amends 15-35-104, MCA, so coal mine operators are not required to report the amount of coal sold to individual coal purchasers. DOR assumes this section of the bill will have no fiscal impact.
18. Section 15-36-313, MCA, states the procedure to compute tax for oil and gas companies that fail to file. This bill amends this section by omitting the immediate time requirement for the DOR to ascertain the amount of oil and gas produced by the non-filer. DOR assumes this section of the bill will have no fiscal impact.
19. This bill amends 15-39-105, MCA, to make penalty provisions of this statute refer to the penalty statutes amended by this bill. DOR states that this section of the bill will have no fiscal impact.
20. This bill amends 15-39-107, MCA, to make penalty provisions of this statute refer to the penalty statutes amended by this bill. DOR states that this section of the bill will have no fiscal impact.
21. This bill amends 72-3-1006, MCA, to clarify reporting requirements for estates. DOR states that this section of the bill will have no fiscal impact. This bill would repeal 15-1-113, MCA, because 15-1-113, MCA, has been superseded by other statutes.
22. This bill revises statute 15-1-201, MCA, to direct other state agencies to report information relevant to tax compliance and also to report criminal activity that constitutes tax fraud to the department. DOR assumes this bill will increase the department's use of information from other state agencies for effective compliance with state and local tax laws, as well as allowing the use of tax information by other agencies for their administrative purposes. Over time, DOR projects the provisions of this section should increase compliance with the law. DOR assumes the state's general fund revenues should increase as a result, but the increases cannot be precisely estimated at this time. However, using the following methodology put forth by DOR, an estimate of fiscal impacts is made.

Revenue increases are estimated to start in FY 2010 because the bill is applicable starting in tax year 2008 the tax due for FY 2008 is filed by April and May FY 2009. The fraud and compliance revenue is assumed be paid later than the tax return is filed, after assessment and billing are completed, so revenue will likely not increase until FY 2010. Estimates of the revenue increase are made by, first, totaling projected Individual Income Tax (IIT) and Corporation License Tax (CLT) revenue. Revenue from IIT was estimated for FY 2010 and FY 2011 by OBPP using the model and assumptions adopted for HJR 2. Revenue from CLT is the FY 2009 HJR 2 estimate. For purposes of this analysis, DOR assumes that CLT and IIT collections will be increased during FY 2010 and FY 2011 by 0.10% (one tenth of 1 percent) due to this bill. Multiplying total projected revenue by 0.1% gives the increase of \$1,063,969 in FY 2010 and an increase of \$1,109,744 in FY 2011. The following table shows this calculation.

Estimated General Fund Increase from SB 174		
	FY 2010	FY 2011
Individual Income Tax Revenue	\$896,702,000	\$942,477,000
Corporate License Tax Revenue	\$167,267,000	\$167,267,000
Total (Individual + Corporate)	\$1,063,969,000	\$1,109,744,000
Multiplied by DOR Estimated % Revenue Increase	0.10%	0.10%
New Revenue	\$1,063,969	\$1,109,744

23. Under current law, when other agencies uncover criminal activities related to tax fraud they are unable to forward their findings to the DOR. Current law requires information related to criminal matters be referred to a specific unit that handles criminal justice matters. Because the department does not have a unit that specifically handles criminal justice issues, other agencies are prohibited from forwarding the information related to tax fraud. This bill would require other criminal justice agencies to forward

evidence of tax fraud to a new DOR tax fraud unit. This unit would consist of 3 additional FTEs: one attorney, one paralegal, and one auditor. The unit will pursue criminal tax fraud and assist county attorneys in prosecuting the cases developed by the unit.

24. This bill provides for applicability to all tax years beginning after December 31, 2007.

25. This bill would be effective upon passage and approval.

Department of Revenue

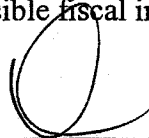
	<u>FY 2008</u> <u>Difference</u>	<u>FY 2009</u> <u>Difference</u>	<u>FY 2010</u> <u>Difference</u>	<u>FY 2011</u> <u>Difference</u>
<u>Fiscal Impact:</u>				
FTE	3.00	3.00	3.00	3.00
<u>Expenditures:</u>				
Personal Services	\$196,718	\$196,929	\$197,142	\$197,354
Operating Expenses	\$14,151	\$14,295	\$14,439	\$14,586
Equipment	\$11,775	\$0	\$0	\$0
TOTAL Expenditures	<u>\$222,644</u>	<u>\$211,224</u>	<u>\$211,581</u>	<u>\$211,940</u>
<u>Funding of Expenditures:</u>				
General Fund (01)	<u>\$222,644</u>	<u>\$211,224</u>	<u>\$211,581</u>	<u>\$211,940</u>
TOTAL Funding of Exp.	<u>\$222,644</u>	<u>\$211,224</u>	<u>\$211,581</u>	<u>\$211,940</u>
<u>Revenues:</u>				
General Fund (01)	<u>\$0</u>	<u>\$0</u>	<u>\$1,063,969</u>	<u>\$1,109,744</u>
TOTAL Revenues	<u>\$0</u>	<u>\$0</u>	<u>\$1,063,969</u>	<u>\$1,109,744</u>
<u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u>				
General Fund (01)	(\$222,644)	(\$211,224)	\$852,388	\$897,804

Long-Range Impacts:

1. This bill would increase the state general fund by about \$1 million per year for the foreseeable future.

Technical Notes:

- This bill adds sections 15-1-201(4,5), MCA, which requires state agencies to report taxpayer information to DOR, and allows DOR to exchange taxpayer name and address information with other state agencies. This section may conflict with other state and federal confidentiality requirements for certain state programs.
- This bill adds 15-1-201(4)(a), MCA, which requires state agencies to report taxpayer information to the DOR at the department's request. The bill also adds 15-1-201(4)(b), MCA, which requires state agencies to report confidential criminal justice information that may be evidence of fraud to the DOR. There is a possible fiscal impact for all state agencies.


Sponsor's Initials

1/10/07
Date


Budget Director's Initials

1/9/07
Date